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Salt Lake City, UT 84114  
Telephone (801) 538-3872

## BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF UTAH

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

ATLAS TITLE INSURANCE AGENCY, INC.  
490 West 100 South  
Heber City, UT 84032  
License No. 90215

**STIPULATION  
&  
ORDER**

Docket No. 2008-143 PC

Enf. Case No. 2155

### STIPULATION

1. Respondent, Atlas Title Insurance Agency, Inc., is a licensed title insurance agency in the State of Utah, holding License No. 90215.
2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
  - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
  - b. Respondent admits the Findings of Fact and Conclusions made therefrom;
  - c. Respondent stipulates to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and

d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

3. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived its right to such hearing and to any appeal related thereto.

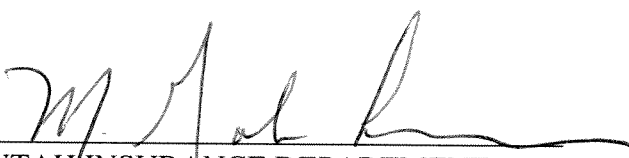
4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to its rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for the purpose of disposition of the matter entitled herein.

DATED this 17th day of Sept, 2008.

  
ATLAS TITLE INSURANCE AGENCY, INC.  
Michael H. Brown, President

  
UTAH INSURANCE DEPARTMENT  
M. Gale Lemmon, Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

### **FINDINGS OF FACT**

1. From the time period of about August 2007 through May 2008, Respondent accepted funds from at least 42 persons in the amounts of \$500.00 each under an “escrow agreement.” Those funds were intended as a “reservation deposit” in connection with a marketing promotion by a real estate developer in St. George, Utah. The deposits were for the purpose of reserving a right by the depositor to enter into a real estate purchase contract upon the recording of a final subdivision plat on the property being developed.

2. Respondent placed the deposits received into its escrow trust account.

3. At the time the Respondent accepted those funds, no real estate transaction was in process and no contract for the purchase of real estate existed, no owner’s or lender’s policy of title insurance was to be issued, and no escrow charges were made to the participants in the escrow agreement.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

### **CONCLUSIONS OF LAW**

1. In entering into escrow agreements where no real estate transaction was in process and no title insurance was to be issued, Respondent violated Utah Code Annotated § 31A-23a-406(1)(c)

2. In failing to charge filed escrow rates in connection with escrow agreements, Respondent violated Utah Code Annotated § 31A-19a-209(3) and Utah Administrative Code

Rule R590-153-5.C.

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

**ORDER**

IT IS HEREBY ORDERED:

1. Respondent shall return the various deposits received in connection with the “Reservation and Escrow Agreement[s]” to the parties making the deposits, to be completed within 30 days of the date of this Order.

2. Respondent shall provide a report to department personnel of the names of persons from whom deposits were received and whose deposits were returned beginning from January 1, 2007, showing the name, address, amount returned and date returned and a list of any deposits and the names of the persons making those deposits that were unable to be returned. Said report shall be submitted to the department within 45 days following the date of this Order.

IT IS FURTHER RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. The Respondent be assessed an administrative forfeiture in the amount of \$15,000.00, to be paid within 30 days of the date of the imposition of the penalty by the Title and Escrow Commission.

2. The Respondent’s title insurance agent’s license be placed on probation for a period of 12 months beginning with the date of the imposition of the probation by the Title and Escrow Commission. The recommended terms of probation are:

a. Respondent shall have no further violations of the Utah Insurance Code or Rules or of any Order of the Commissioner.


b. Respondent shall submit quarterly financial statements to department

personnel, to be received in the offices of the department not later than 30 days following the end of each calendar quarter.

c. Respondent shall cooperate with any unannounced fiduciary audits that may be conducted by the department during the period of probation.

DATED this 4<sup>th</sup> day of September, 2008.

D. KENT MICHIE  
INSURANCE COMMISSIONER

  
MARK E. KLEINFELD, Esq.  
Administrative Law Judge  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, Utah 84114  
Telephone (801) 538-3800

suspension or revocation of your license, and the filing of an action to enforce this Order in the District Court, which may impose penalties of up to \$10,000.00 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

IMPOSITION OF PENALTY

By a vote of 5 to 0 taken in open meeting on this date, the Utah Title and Escrow Commission hereby imposes a forfeiture in the amount of \$ 2,500.<sup>00</sup> to

be paid within 30 days of the imposition of the same and

12 months probation and audits as per stipulation

Dated this 10<sup>th</sup> of November, 2008.

  
Chairman


Title and Escrow Commission

CONCURRENCE WITH COMMISSION IMPOSED PENALTY

On behalf of the Commissioner of the Utah Insurance Department I hereby concur  
with the penalty imposed by the Utah Title and Escrow Commission in the above matter.

DATED this 10<sup>th</sup> day of November, 2008.

D. KENT MICHIE  
INSURANCE COMMISSIONER

  
\_\_\_\_\_  
MARK E. KLEINFELD  
Administrative Law Judge

## CERTIFICATE OF MAILING

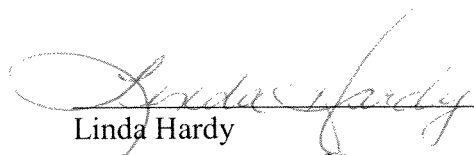
I do hereby certify that on this date I mailed, by regular mail, postage prepaid a true and correct copy of the attached:

### STIPULATION & ORDER

To the following:

Atlas Title Insurance Agency, Inc.  
490 West 100 South  
Heber, Utah 84032

DATED this 12<sup>th</sup> day of November 2008.



Linda Hardy

Court Clerk

Utah Department of Insurance  
State Office Building, Room 3110  
Salt Lake City, UT 84114-6901

**UTAH**  
**Invoice - Original**

Page 1

Printed Date: November 12, 2008  
Invoice Date: November 12, 2008  
Balance Due: \$15,000.00  
Due Date: December 12, 2008  
Invoice ID: 394538  
Payor ID: 7663

MICHAEL BROWN  
ATLAS TITLE INSURANCE AGENCY INC  
490 W 100 S  
HEBER CITY UT 84032

<b>Item Description</b>	<b>Amount</b>
11/12/2008 Monetary Penalty Agency	\$15,000.00
E-Case 2155 Docket 2008-143 PC	
<b>Original Amount Due</b>	<b>\$15,000.00</b>

**UTAH**  
**Invoice - Original**

Invoice Date: November 12, 2008  
Balance Due: \$15,000.00  
Due Date: December 12, 2008  
Invoice ID: 394538  
Payor ID: 7663  
Payor Name: ATLAS TITLE  
INSURANCE  
AGENCY, INC

Make checks payable to: Utah Insurance Department

Send payment to:

Utah Insurance Department  
3110 State Office Building  
Salt Lake City, UT 84114-6901